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the underlying policy or plan of insurance, or cause disruption in the marketplace for products reinsured by FCIC.

(1) An NRS policy will be considered to disrupt the marketplace if it adversely affects the sales or administration of reinsured policies, undermines producers' confidence in the Federal crop insurance program, decreases the producer's willingness or ability to use Federally reinsured risk management products, or harms public perception of the Federal crop insurance program.

(2) The applicant, at a minimum, must provide worksheets and examples that establish liability and determine indemnities that demonstrate the performance of the NRS policy under differing scenarios. When the review is complete, FCIC will forward their findings to the applicant.

(c) If the approved insurance provider sells an NRS policy that RMA determines materially increases or shifts risk to the underlying FCIC reinsured policy, reduces or limits the rights of the insured with respect to the underlying policy, or causes disruption in the marketplace for products reinsured by FCIC, reinsurance, A&O subsidy and risk subsidy will be denied on the underlying FCIC reinsured policy for which such NRS policy was sold.

(d) FCIC will respond to the submitter not less than 60 days before the first sales closing date or provide notice why FCIC is unable to respond within the time frame allotted.

[70 FR 44242, Aug. 2, 2005]

Subpart W [Reserved]

Subpart X—Interpretations of Statutory and Regulatory Provisions

SOURCE: 63 FR 70313, Dec. 21, 1998, unless otherwise noted.

§ 400.765 Basis and applicability.

(a) The regulations contained in this subpart prescribe the rules and criteria for obtaining a final agency determination of the interpretation of any provision of the Act or the regulations promulgated thereunder.

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(b) Requesters may seek interpretations of those provisions of the Act and the regulations promulgated thereunder that are in effect for the crop year in which the request under this subpart is being made and the three previous crop years.

(c) All final agency determinations issued by FCIC, and published in accordance with § 400.768(f), will be binding on all participants in the Federal crop insurance program.

[63 FR 70313, Dec. 21, 1998, as amended at 64 FR 50246, Sept. 16, 1999]

§ 400.766 Definitions.

Act. The Federal Crop Insurance Act, 7 U.S.C. 1501 *et seq.*

FCIC. The Federal Crop Insurance Corporation, a wholly owned government corporation within the United States Department of Agriculture.

Participant. Any applicant for crop insurance, a producer with a valid crop insurance policy, or a private insurance company with a reinsurance agreement with FCIC or their agents, loss adjusters, employees or contractors.

Regulations. All provisions contained in 7 CFR chapter IV.

§ 400.767 Requester obligations.

(a) All requests for a final agency determination under this subpart must:

(1) Be submitted:

(i) In writing by certified mail, to the Associate Administrator, Risk Management Agency, United States Department of Agriculture, Stop Code 0801, 1400 Independence Avenue, SW., Washington, DC 20250-0801;

(ii) By facsimile at (202) 690-9911;

(iii) By electronic mail at RMA.CCO@rma.usda.gov; or

(iv) By overnight delivery to the Associate Administrator, Risk Management Agency, United States Department of Agriculture, Stop 0801, Room 6092-S, 1400 Independence Avenue, SW., Washington DC 20250.

(2) State that it is being submitted under section 506(s) of the Act;

(3) Identify and quote the specific provision in the Act or regulations for which a final agency determination is requested;

(4) State the crop year for which the interpretation is sought;

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(5) State the name, address, and telephone number of a contact person affiliated with the request; and

(6) Contain the requester's detailed interpretation of the regulation.

(b) The requestor must advise FCIC if the request for a final agency determination will be used in a lawsuit or the settlement of a claim.

(c) Each request for final agency determination under this subpart must contain no more than one request for an agency interpretation.

[63 FR 70313, Dec. 21, 1998, as amended at 64 FR 50246, Sept. 16, 1999; 71 FR 2135, Jan. 13, 2006; 74 FR 66029, Dec. 14, 2009]

§ 400.768 FCIC obligations.

(a) FCIC will not interpret any specific factual situation or case, such as actions of any participant under the terms of a policy or any reinsurance agreement.

(b) If, in the sole judgement of FCIC, the request is unclear, ambiguous, or incomplete, FCIC will not provide an interpretation, but will notify the requester that the request is unclear, ambiguous or incomplete, within 30 days of such request.

(c) FCIC will provide a final determination of the interpretation to a request that meets all the conditions stated herein to the requester in writing, and at FCIC's discretion in the format in which it was received, within 90 days of the date of receipt by FCIC.

(d) If a requestor is notified that a request is unclear, ambiguous or incomplete under section 400.768(b), the time to respond will be tolled from the date FCIC notifies the requestor until the date that FCIC receives a clear, complete, and unambiguous request.

(e) If a response is not provided within 90 days, the requestor may assume the interpretation provided is correct for the applicable crop year.

(f) All agency final determinations will be published by FCIC as specially numbered documents on the RMA Internet website.

(g) All final agency determinations are considered matters of general applicability that are not appealable to the National Appeals Division. Before obtaining judicial review of any final agency determination, the person must obtain an administratively final deter-

mination from the Director of the National Appeals division on the issue of whether the final agency determination is a matter of general applicability.

PART 401 [RESERVED]

PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT

Sec.

402.1 General statement.

402.2 Applicability.

402.3 OMB control numbers.

402.4 Catastrophic Risk Protection Endorsement Provisions.

AUTHORITY: 7 U.S.C. 1506(l), 1506(o).

SOURCE: 61 FR 42985, Aug. 20, 1996, unless otherwise noted.

§ 402.1 General statement.

The Federal Crop Insurance Act, as amended by the Federal Crop Insurance Reform Act of 1994, requires the Federal Crop Insurance Corporation to implement a catastrophic risk protection plan of insurance that provides a basic level of insurance coverage to protect producers in the event of a catastrophic crop loss due to loss of yield or prevented planting, if provided by the Corporation, provided the crop loss or prevented planting is due to an insured cause of loss specified in the crop insurance policy. This Catastrophic Risk Protection Endorsement is a continuous endorsement that is effective in conjunction with a crop insurance policy for the insured crop. Catastrophic risk protection coverage will be offered through approved insurance providers if there are a sufficient number available to service the area. If there are an insufficient number available, as determined by the Secretary, local offices of the Farm Service Agency will provide catastrophic risk protection coverage.

§ 402.2 Applicability.

This Catastrophic Risk Protection Endorsement is applicable to each crop for which catastrophic risk protection coverage is available and for which the producer elects such coverage.